

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

- - - - -x

UNITED STATES OF AMERICA : SUPERSEDING INDICTMENT

- v. - : S1 11 Cr. 46 (GBD)

JOSE LUIS ORTIZ-HERNANDEZ, :

a/k/a "Luis,"

a/k/a "Eli Bustos Holguin," :

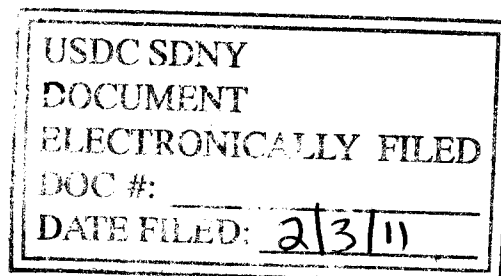
a/k/a "Hilario,"

MARCO ANTONIO LOPEZ-GOMEZ, :

Defendants. :

- - - - -x

COUNT ONE



The Grand Jury charges:

1. From at least on or about November 17, 2010, up to and including on or about November 29, 2010, in the Southern District of New York and elsewhere, JOSE LUIS ORTIZ-HERNANDEZ, a/k/a "Luis," a/k/a "Eli Bustos-Holguin," a/k/a "Hilario," and MARCO ANTONIO LOPEZ-GOMEZ, the defendants, unlawfully, willfully, and knowingly, and in reckless disregard of the fact that the aliens had come to, entered, and remained in the United States in violation of law, did transport and move, and attempt to transport and move, aliens within the United States by means of transportation and otherwise, in furtherance of such violation of law, and for the purpose of commercial advantage and private financial gain, to wit, ORTIZ-HERNANDEZ and LOPEZ-GOMEZ

transported aliens from New Mexico to Ohio in exchange for payments.

(Title 8, United States Code, Sections 1324(a)(1)(A)(ii), 1324(a)(1)(A)(v)(II) and 1324(a)(1)(B)(i).)

Count Two

The Grand Jury further charges:

2. From at least on or about November 17, 2010, up to and including on or about November 29, 2010, in the Southern District of New York and elsewhere, JOSE LUIS ORTIZ-HERNANDEZ, a/k/a "Luis," a/k/a "Eli Bustos-Holguin," a/k/a "Hilario," and MARCO ANTONIO LOPEZ-GOMEZ, the defendants, and others known and unknown, unlawfully, willfully, and knowingly did, combine, conspire, confederate, and agree to violate Title 8, United States Code, Section 1324(a)(1)(A)(ii).

3. It was a part and an object of the conspiracy that JOSE LUIS ORTIZ-HERNANDEZ, a/k/a "Luis," a/k/a "Eli Bustos-Holguin," a/k/a "Hilario," and MARCO ANTONIO LOPEZ-GOMEZ, the defendants, and others known and unknown, would and did transport and move, and attempt to transport and move, aliens within the United States by means of transportation and otherwise, knowing and in reckless disregard of the fact that the aliens had come to, entered, and remained in the United States in violation of law, in furtherance of such violation of law, in violation of Title 18 United States Code, Section 1324(a)(1)(A)(ii).

Overt Act

4. In furtherance of the conspiracy and to effect the illegal object thereof, the following overt act, among others, was committed in the Southern District of New York and elsewhere:

a. On or about November 28, 2010, JOSE LUIS ORTIZ-HERNANDEZ, a/k/a "Luis," a/k/a "Eli Bustos-Holguin," a/k/a "Hilario," and MARCO ANTONIO LOPEZ-GOMEZ, the defendants, and others known and unknown, transported a group of aliens from New Mexico to Ohio by automobile.

(Title 8, United States Code, Section 1324(a)(1)(A)(v)(I).)

COUNT THREE

5. From at least on or about November 17, 2010, up to and including on or about November 29, 2010, JOSE LUIS ORTIZ-HERNANDEZ, a/k/a "Luis," a/k/a "Eli Bustos-Holguin," a/k/a "Hilario," and MARCO ANTONIO LOPEZ-GOMEZ, the defendants, and others known and unknown, unlawfully, willfully, and knowingly conspired to commit extortion, as that term is defined in Title 18, United States Code, Section 1951(b)(2), and would and did thereby obstruct, delay, and affect commerce and the movement of articles and commodities in commerce, as that term is defined in Title 18, United States Code, Section 1951(b)(3), to wit, ORTIZ-HERNANDEZ and LOPEZ-GOMEZ, and others known and unknown, agreed to use threatened force, violence, and fear in order to obtain money from a family member of an alien (the "Victim") whom ORTIZ-

HERNANDEZ and LOPEZ-GOMEZ unlawfully transported from New Mexico to Ohio.

Overt Act

6. In furtherance of the conspiracy and to effect the illegal object thereof, the following overt act, among others, was committed in the Southern District of New York and elsewhere:

a. From on or about November 28, 2010, up to and including on or about November 29, 2010, JOSE LUIS ORTIZ-HERNANDEZ, a/k/a "Luis," a/k/a "Eli Bustos-Holguin," a/k/a "Hilario," the defendant, refused to release the Victim in New York, New York until the Victim's family members paid an additional sum of money.

(Title 18, United States Code, Section 1951.)

COUNT FOUR

7. From at least on or about November 28, 2010, up to and including on or about November 29, 2010, in the Southern District of New York and elsewhere, JOSE LUIS ORTIZ-HERNANDEZ, a/k/a "Luis," a/k/a "Eli Bustos-Holguin," a/k/a "Hilario," and MARCO ANTONIO LOPEZ-GOMEZ, the defendants, unlawfully, willfully and knowingly did seize, confine, inveigle, decoy, kidnap, abduct, and carry away, an individual, and hold him for ransom, reward, and otherwise, and did travel in interstate commerce in committing the offense, to wit, ORTIZ-HERNANDEZ and LOPEZ-GOMEZ transported the "Victim" from New York to Ohio against the will

of the Victim after the Victim's family members failed to pay a sum of money for the release of the Victim.

(Title 18, United States Code, Sections 1201, 2.)

COUNT FIVE

8. From at least on or about November 28, 2010, up to and including on or about November 29, 2010, in the Southern District of New York and elsewhere, JOSE LUIS ORTIZ-HERNANDEZ, a/k/a "Luis," a/k/a "Eli Bustos-Holguin," a/k/a "Hilario," and MARCO ANTONIO LOPEZ-GOMEZ, the defendants, and others known and unknown, unlawfully, willfully, and knowingly did, combine and conspire to confine, inveigle, decoy, kidnap, abduct, and carry away, an individual, and hold him for ransom, reward, and otherwise, and to travel in interstate commerce in committing the offense.

Overt Act

9. In furtherance of the conspiracy and to effect the illegal object thereof, the following overt act, among others, was committed in the Southern District of New York and elsewhere:

a. From on or about November 28, 2010, up to and including on or about November 29, 2010, JOSE LUIS ORTIZ-HERNANDEZ, a/k/a "Luis," a/k/a "Eli Bustos-Holguin," a/k/a "Hilario," and MARCO ANTONIO LOPEZ-GOMEZ, the defendants, transported the Victim from New York to Ohio against the will of the Victim after the Victim's family members failed to pay a sum

of money for the release of the Victim.

(Title 18, United States Code, Section 1201(c).)

FORFEITURE ALLEGATIONS

10. As a result of committing the offenses alleged in Counts One and Two of this Indictment, JOSE LUIS ORTIZ-HERNANDEZ, a/k/a "Luis," a/k/a "Eli Bustos-Holguin," a/k/a "Hilario," and MARCO ANTONIO LOPEZ-GOMEZ, the defendants, shall forfeit to the United States pursuant to 18 U.S.C. § 982(a)(6)(A), any conveyance, including any vessel, vehicle or aircraft used in the commission of the alien smuggling offenses, any and all property constituting or derived from any proceeds obtained directly or indirectly as a result of the alien smuggling offenses, and any and all property used or intended to be used in any manner or part to facilitate the commission of the alien smuggling offenses.

Substitute Asset Provision

11. If any of the above-described forfeitable property, as a result of any act or omission of the defendants:

a. cannot be located upon the exercise of due diligence;

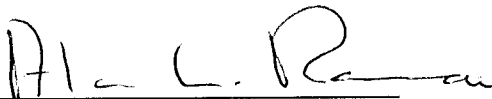
b. has been transferred or sold to, or deposited with, a third person;

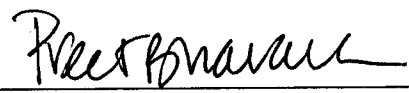
c. has been placed beyond the jurisdiction of the Court;

d. has been substantially diminished in value; or

e. has been commingled with other property which cannot be subdivided without difficulty, it is the intent of the United States, pursuant to 18 U.S.C. § 982(b), to seek forfeiture of any other property of said defendants up to the value of the above forfeitable property.

(Title 18, United States Code, Section 982(a)(6)(A).)


FOREPERSON


PREET BHARARA
United States Attorney

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MARCO ANTONIO LOPEZ-GOMEZ,

Defendants.

SUPERSEDING INDICTMENT

S1 11 Cr. 46

(8 U.S.C. § 1324(a)(1)(A)(ii), 8 U.S.C. §
1324(a)(1)(v)(II), 8 U.S.C. §
1324(a)(1)(B)(i), 8 U.S.C. §
1324(a)(1)(A)(v)(I), 18 U.S.C. § 1951, 18
U.S.C. § 1201, 18 U.S.C. § 2, and
18 U.S.C. § 982(a)(6)(A).)

PREET BHARARA

United States Attorney.

A TRUE BILL

AL LITZ
Foreperson.

2/3/11 Filed indictment. Case assigned to Judge Berman
of mag. Judge Katz